IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4385 OF 2005

Siddheshwar Channabasu Bagale. ... Applicant.

Versus.

State of Maharashtra. ... Respondent.

Shri S.V.Pitre for the Applicant.

Shri R.Y.Mirza, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 25th July, 2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned A.P.P. for the State.

2. The learned Advocate for the Applicant relied upon the order passed by this Court dated 3rd May 2005 by which the co-accused Nagesh was ordered to be released on bail. He has placed reliance on the order dated 8th June 2005 passed by the Sessions Court by which another co-accused Smt.Prabavati Bangale is ordered to be enlarged on bail. He submitted that the Applicant is only 27 years old young man having no criminal antecedents and the offence has taken place at the spur of the moment. He, therefore, submitted that the Applicant be enlarged on bail subject to stringent conditions. The learned A.P.P. opposed the Application by pointing out relevant material on record.

3. The Applicant is not entitled to claim parity on the basis of the aforesaid two orders. The co-accused who is enlarged on bail by this Court has allegedly assaulted the victim with fists and kick blows. The role played by the co-accused who is enlarged on bail under the orders of the Sessions Court is also limited. The allegation against the present Applicant is that the Applicant gave a blow by using a wooden log on the head of the deceased. The post-mortem notes show that the deceased suffered a fracture of skull and there was an injury to his brain. Considering the role played by the Applicant and the manner in which he has allegedly assaulted the deceased, this is not a case to enlarge the Applicant on bail. His complicity in an offence punishable under section 302 IPC is prima facie established at this stage by the prosecution.

4. No case is made out for enlarging the Applicant on bail. The Application is rejected. Considering the age of the Applicant, the learned Sessions Judge will dispose of the case as expeditiously as possible.

Judge.